

AMENDED IN ASSEMBLY APRIL 29, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2546**

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**Introduced by Assembly Member Salas**

February 21, 2014

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An act to add Chapter 3.5 (~~commencing with Section 101800~~) 5.5 (*commencing with Section 101852*) to Part 4 of Division 101 of the Health and Safety Code, relating to public health.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2546, as amended, Salas. Kern County Hospital Authority.

Existing law authorizes the board of supervisors of certain counties to establish a hospital authority for the management, administration, and control of certain medical facilities.

This bill would authorize the board of supervisors of the County of Kern to establish, *by ordinance*, the Kern County Hospital Authority ~~by reaching an agreement with at least one health care facility and adopting an ordinance~~. *to manage, administer, and control the Kern Medical Center and other health care facilities, as defined. The bill would prohibit establishing the hospital authority until the medical center affiliates or consolidates with at least one other health care facility, as specified. The bill would grant to the authority the duties, privileges, immunities, rights, liabilities, and limitations of a local unit of government within the state. The bill would specify that the transfer to the authority of the management, administration, and control of the medical center and another health facility does not affect the eligibility of the county or the governing board of another health care facility for,*

but authorizes the authority to participate in and receive, various sources of funding, as specified, including various Medi-Cal programs.

This bill would provide various protections for the benefits of the permanent employees of the medical center, subject to certain conditions, and would authorize the authority to contract with the Public Employees' Retirement System, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 5.5 (commencing with Section 101852)  
2     is added to Part 4 of Division 101 of the Health and Safety Code,  
3     to read:

4  
5             CHAPTER 5.5. KERN COUNTY HOSPITAL AUTHORITY

6  
7                     Article 1. General Provisions

8  
9     101852. (a) This chapter shall be known and may be cited as  
10    the Kern County Hospital Authority Act.

11    (b) The Legislature finds and declares all of the following:

12    (1) Kern Medical Center, currently a constituent department of  
13    the County of Kern, is a designated public hospital, as defined in  
14    subdivision (d) of Section 14166.1 of the Welfare and Institutions  
15    Code, and a critical component of the state's health care safety  
16    net.

17    (2) Because there is no general law under which this public  
18    hospital authority could be formed for these purposes, the adoption  
19    of a special act and formation of a special authority by the  
20    Legislature are required.

21    101852.1. For purposes of this chapter, the following  
22    definitions shall apply:

23    (a) "Authority" means the Kern County Hospital Authority  
24    established pursuant to this chapter.

25    (b) "Board of supervisors" means the Board of Supervisors of  
26    the County of Kern.

27    (c) "Board of trustees" means the governing body of the  
28    authority.

29    (d) "County" means the County of Kern.

1 (e) “Governing board” means the governing body of any other  
2 health care facility, as defined in subdivision (g).

3 (f) “Medical center” means the Kern Medical Center and  
4 related public health care programs, facilities, care organizations,  
5 and delivery systems that exist or are established by the board of  
6 trustees.

7 (g) “Other health care facility” or “other health care facilities”  
8 means one or more health care facilities, districts, or systems in  
9 the County of Kern, including, but not limited to, general acute  
10 care hospitals, public hospital districts, and related health care  
11 programs, facilities, care organizations, and delivery systems, but  
12 does not include the medical center.

13  
14 *Article 2. Establishment of the Kern County Hospital Authority*  
15

16 101852.2. (a) Pursuant to this chapter, the board of  
17 supervisors may establish, subject to the limitations of paragraph  
18 (1) of subdivision (c), the Kern County Hospital Authority, which  
19 is, for all purposes, a public entity separate and apart from the  
20 county and any other public entity. The authority established  
21 pursuant to this chapter shall file the statement required by Section  
22 53051 of the Government Code, and is a public entity for purposes  
23 of Division 3.6 (commencing with Section 810) of Title 1 of the  
24 Government Code.

25 (b) (1) The purpose of the authority shall be to do all of the  
26 following:

27 (A) Provide management, administration, and other controls,  
28 consistent with this chapter, for the medical center to continue to  
29 serve as a designated public hospital and ensure the viability of  
30 the health care safety net in the county in a manner consistent with  
31 the county’s requirements under Section 17000 of the Welfare and  
32 Institutions Code.

33 (B) Provide management, administration, and other controls  
34 for the continued operation of one or more other health care  
35 facilities that may be affiliated or consolidated with the medical  
36 center pursuant to this chapter.

37 (2) Subject to the requirements of this chapter, the authority  
38 shall be charged with the management, administration, and control  
39 of the medical center, other health care facilities, and related  
40 services and facilities.

1     (c) (1) *Except as specifically set forth in this chapter, the*  
2 *authority shall not be established, transact business, exercise*  
3 *powers, or undertake duties and responsibilities pursuant to this*  
4 *chapter until an agreement is reached to affiliate or consolidate*  
5 *the medical center with at least one other health care facility as*  
6 *set forth in this subdivision. In order for the authority to be*  
7 *established, transact any business, exercise its powers, or*  
8 *undertake its duties and responsibilities, the board of supervisors*  
9 *and at least one governing board shall reach agreement, on terms*  
10 *and conditions satisfactory to the parties, regarding the affiliation*  
11 *or consolidation. This agreement may include, but is not limited*  
12 *to, a transfer of the following:*

13     (A) *Real and personal property and assets and liabilities from*  
14 *the county and the other health care facility to the authority.*

15     (B) *Employees from the county and the other health care facility*  
16 *to the authority.*

17     (C) *Maintenance, operation, and management or ownership of*  
18 *the medical center, in accordance with Section 14000.2 of the*  
19 *Welfare and Institutions Code.*

20     (D) *Maintenance, operation, and management or ownership of*  
21 *the other health care facility.*

22     (E) *Other matters that the board of supervisors and the*  
23 *governing board deem necessary or appropriate.*

24     (2) *If the board of supervisors and the governing board reach*  
25 *an agreement on the matters set forth in this subdivision, the terms*  
26 *and conditions of the agreement shall be binding upon the*  
27 *authority. After the agreement is reached, the board of supervisors*  
28 *shall adopt an ordinance to establish the authority and authorize*  
29 *the authority to exercise the powers and duties pursuant to this*  
30 *chapter, and the board of supervisors and the governing board*  
31 *shall appoint a board of trustees as set forth in Section 101852.4.*  
32 *The agreement set forth in this section may be amended from time*  
33 *to time upon the mutual consent of the authority and the governing*  
34 *board or the board of supervisors, or both, as appropriate.*

35     (3) (A) *The agreement shall provide that upon the effective date*  
36 *of the ordinance described in paragraph (2), the authority shall*  
37 *take any actions necessary so that the county has no continuing*  
38 *financial obligation or responsibility with respect to the authority*  
39 *or its operations.*

1     (B) *The authority's funds shall not remain or be kept on deposit*  
2 *with the county, or otherwise be in the custody or control of the*  
3 *county, and the authority shall not be permitted to deposit funds*  
4 *with the county, including within the county's treasury investment*  
5 *pool.*

6     (d) *An agreement concerning the transfer of personnel shall*  
7 *include a transition plan that requires all the following:*

8     (1) *Ongoing communication to employees and recognized*  
9 *employee organizations regarding the impact of the transition on*  
10 *existing medical center and other health care facility employees*  
11 *and employee classifications.*

12     (2) *Meeting and conferring by the county and the other health*  
13 *care facility with affected employee bargaining units on both of*  
14 *the following issues:*

15     (A) *A timeframe for which the transfer of personnel shall occur.*

16     (B) *A specified period of time during which employees of the*  
17 *county affected by the establishment of the authority may elect to*  
18 *be considered for appointment to vacant positions, and exercise*  
19 *reinstatement rights, for which they are qualified and eligible. An*  
20 *employee who first elects to remain with the county, but who*  
21 *subsequently seeks employment with the authority within 30 days*  
22 *of this election, shall be subject to the requirements of this article.*

23     (3) *Acknowledgment that the authority, to the extent permitted*  
24 *by federal law, shall be bound by the terms of any memoranda of*  
25 *understanding executed between the county and its exclusive*  
26 *employee representatives that is or will be in effect as of the date*  
27 *the county adopts the ordinance pursuant to this article. Subsequent*  
28 *memoranda of understanding are subject to approval only by the*  
29 *authority.*

30     (e) (1) *Notwithstanding any other provision of this chapter,*  
31 *and whether or not accompanied by a change in licensing, an*  
32 *agreement for the maintenance, operation, and management or*  
33 *ownership of the medical center does not relieve the county of the*  
34 *ultimate responsibility for indigent care pursuant to Section*  
35 *14000.2 of the Welfare and Institutions Code.*

36     (2) *An agreement for the maintenance, operation, and*  
37 *management or ownership of the medical center shall conform to*  
38 *the following requirements:*

39     (A) *Shall comply with Section 14000.2 of the Welfare and*  
40 *Institutions Code.*

1 (B) May be made upon the terms and conditions that the board  
2 of supervisors and governing board may mutually agree, including  
3 those terms and conditions found necessary by the board of  
4 supervisors to ensure that the transfer of the medical center shall  
5 constitute an ongoing benefit to the county and its residents.

6 (C) Shall provide that the county shall ensure that any  
7 applicable requirements of Section 1442.5 are met.

8 (3) An agreement for the maintenance, operation, and  
9 management or ownership of the other health care facility may be  
10 made upon the terms and conditions that the board of supervisors  
11 and the governing board may mutually agree, including those  
12 terms and conditions found necessary by the governing board to  
13 ensure that the transfer shall constitute an ongoing benefit to the  
14 other health care facility and its constituents.

15 (f) The authority is not subject to the jurisdiction of a local  
16 agency formation commission pursuant to the  
17 Cortese-Knox-Hertzberg Local Government Reorganization Act  
18 of 2000 (Division 3 (commencing with Section 56000) of Title 5  
19 of the Government Code), or any successor statute.

20 101852.3. Upon an agreement between the authority and each  
21 affected employee bargaining unit:

22 (a) Permanent employees of the medical center on the effective  
23 date of affiliation shall be deemed qualified for employment or  
24 retention and no other qualifications shall be required.  
25 Probationary employees on the effective date of affiliation shall  
26 retain their probationary status and rights and shall not be deemed  
27 to have transferred so as to require serving a new probationary  
28 period.

29 (b) Employment seniority of an employee of the medical center  
30 on the effective date of affiliation shall be counted toward seniority  
31 in the authority. The authority shall provide for the maintenance  
32 of benefits that accompany seniority, including, but not limited to,  
33 preference in vacations and scheduling, when applicable. All time  
34 served in the same, equivalent, or higher classification shall be  
35 counted toward classification seniority.

36 (c) The implementation of this chapter shall not be a cause for  
37 the modification of the level of medical center employment benefits.  
38 Upon consolidation or affiliation of the medical center with at  
39 least one other health care facility, employees who serve or work  
40 for the medical center immediately prior to the implementation of

1 *this chapter shall retain their existing or equivalent classifications*  
2 *and job descriptions upon transfer to the authority, comparable*  
3 *pension benefits, and at least their existing salaries and other*  
4 *benefits that include, but are not limited to, accrued and unused*  
5 *vacation, sick leave, personal leave, health care, retiree health*  
6 *benefits, and deferred compensation plans.*

7 *(d) To the extent permitted by federal law, the authority may*  
8 *contract with the Public Employees' Retirement System, consistent*  
9 *with the requirements of Section 20508 and other applicable*  
10 *provisions of Part 3 (commencing with Section 20000) of Division*  
11 *5 of Title 2 of the Government Code, for the purpose of providing*  
12 *membership in the Public Employees' Retirement System for*  
13 *authority employees. If the authority contracts with the Public*  
14 *Employees' Retirement System, the authority, to the extent*  
15 *permitted by federal law, shall provide for the continued*  
16 *membership of medical center employees in the Public Employees'*  
17 *Retirement System. If permitted under federal law, the authority*  
18 *and the employees' exclusive representatives may mutually agree*  
19 *to terminate any contract that the authority enters into with the*  
20 *Public Employees' Retirement System, and mutually agree to an*  
21 *alternative pension plan.*

22 *(e) Except as provided in the transfer agreement described in*  
23 *subdivision (d) of Section 101852.2, subdivision (m) of Section*  
24 *101852.5, and this section, this chapter does not prohibit the*  
25 *authority from determining the number of employees, the number*  
26 *of full-time equivalent positions, job descriptions, the nature and*  
27 *extent of classified employment positions, and salaries of*  
28 *employees.*

29  
30 *Article 3. Board of Trustees*  
31

32 *101852.4. (a) The authority shall be governed by a board of*  
33 *trustees. The trustees shall reflect both the expertise necessary to*  
34 *maximize the quality and scope of care at the medical center and*  
35 *the other health care facility in a fiscally responsible manner and*  
36 *the communities of interest that the medical center and the other*  
37 *health care facility serve. The board of trustees shall have the*  
38 *responsibility to operate the medical center and the other health*  
39 *care facility in a manner that ensures the provision of appropriate,*  
40 *quality, and cost-effective medical care through the development*

1 of innovative delivery systems, care arrangements, and contractual  
2 agreements that provide access to affordable, high-quality health  
3 care services.

4 (b) (1) The board of trustees shall consist of the following nine  
5 members:

6 (A) Three trustees appointed for two-year terms, of which the  
7 governing board shall appoint two and the board of supervisors  
8 shall appoint one.

9 (B) Three trustees appointed for three-year terms, of which the  
10 governing board shall appoint one and the board of supervisors  
11 shall appoint two.

12 (C) Three trustees appointed for four-year terms, of which the  
13 governing board shall appoint one and the board of supervisors  
14 shall appoint two.

15 (2) After the board of trustees is appointed, the governing board  
16 and board of supervisors shall continue to make appointments to  
17 those trustee positions for which they each made initial  
18 appointments. The board of supervisors and the governing board  
19 may each remove their respective appointees, upon a majority  
20 vote, only for good cause. If the governing board ceases to exist  
21 at any time, the appointing authority set forth in this subdivision  
22 shall be exercised solely by the board of supervisors. If a vacancy  
23 exists for any reason on the board of trustees, the appointing  
24 authority for that trustee shall make an appointment to fill out the  
25 remainder of the term of the vacant trustee position.

26 (3) Notwithstanding paragraphs (1) and (2), either during or  
27 after the formation of the authority, the board of supervisors and  
28 each governing board that has appointing authority may modify  
29 the number, length of terms, and appointing authority of the board  
30 of trustees by means of the agreement entered into pursuant to  
31 subdivision (c) of Section 101852.2 or amendment to the  
32 agreement, or both, by the county and the governing board that  
33 participated in the formation of the authority, if in existence after  
34 this formation, and the governing board of any other health care  
35 facility that becomes affiliated or merged with the authority, if the  
36 following conditions are met:

37 (A) The board of trustees consists of at least five members.

38 (B) The board of trustees includes appointees of the board of  
39 supervisors and each existing governing board. If no governing  
40 board exists, the board of trustees and the board of supervisors,



1 acting as the appointing authority pursuant to paragraph (2), may  
2 agree to modify the number or length of terms of the board of  
3 trustees.

4 (c) The board of trustees shall adopt bylaws for the authority  
5 that, among other things, shall specify the officers of the board of  
6 trustees, the time, place, and conduct of meetings, and other  
7 matters that the board of trustees deems necessary or appropriate  
8 to conduct the authority's activities. The bylaws shall be operative  
9 upon approval by a majority vote of the board of trustees, but may  
10 be amended, from time to time, by a majority vote of the board of  
11 trustees.

12 (d) The board of trustees created and appointed pursuant to  
13 this chapter is a duly constituted governing body of a general acute  
14 care hospital.

15  
16 Article 4. Powers and Duties of the Authority  
17

18 101852.5. (a) The authority, in addition to any other powers  
19 granted to the authority pursuant to this chapter, shall have the  
20 following powers:

21 (1) To have the duties, privileges, immunities, rights, liabilities,  
22 and limitations of a local unit of government within the state.

23 (2) To have perpetual existence.

24 (3) To adopt, have, and use a seal, and to alter it at its pleasure.

25 (4) To sue and be sued in the name of the authority in all actions  
26 and proceedings in all courts and tribunals of competent  
27 jurisdiction.

28 (5) To purchase, lease, trade, exchange, or otherwise acquire,  
29 maintain, hold, improve, mortgage, lease, sell, and dispose of real  
30 and personal property of any kind necessary or convenient to  
31 perform its functions and fully exercise its powers.

32 (6) To appoint and employ a chief executive officer and other  
33 officers and employees that may be necessary or appropriate,  
34 including legal counsel, to establish their compensation, provide  
35 for their health, retirement, and other employment benefits, and  
36 to define the power and duties of officers and employees.

37 (7) To pursue its own credit rating.

38 (8) To enter into a contract or agreement consistent with this  
39 chapter or the laws of this state, and to authorize the chief  
40 executive officer to enter into contracts, execute all instruments,

1 *and do all things necessary or convenient in the exercise of the*  
2 *powers granted in this chapter.*

3 *(9) To purchase supplies, equipment, materials, property, and*  
4 *services.*

5 *(10) To establish policies relating to its purposes.*

6 *(11) To acquire or contract to acquire, rights-of-way, easements,*  
7 *privileges, and property, and to construct, equip, maintain, and*  
8 *operate any and all works or improvements wherever located that*  
9 *are necessary, convenient, or proper to carry out any of the*  
10 *provisions, objects, or purposes of this chapter, and to complete,*  
11 *extend, add to, repair, or otherwise improve any works or*  
12 *improvements acquired by it.*

13 *(12) To contract for and to accept gifts, grants, and loans of*  
14 *funds, property, or other aid in any form from the federal*  
15 *government, the state, a state agency, or other source, or*  
16 *combination thereof, and to comply, subject to this chapter, with*  
17 *the terms and conditions thereof.*

18 *(13) To invest surplus money in its own treasury, manage*  
19 *investments, and engage third-party investment managers, in*  
20 *accordance with state law.*

21 *(14) To arrange for guarantees or insurance of its bonds, notes,*  
22 *or other obligations by the federal or state government or by a*  
23 *private insurer, and to pay the premiums thereof.*

24 *(15) To engage in managed care contracting, joint ventures,*  
25 *affiliations with other health care facilities, other health care*  
26 *providers and payers, management agreements, or to participate*  
27 *in alliances, purchasing consortia, health insurance pools,*  
28 *accountable care organizations, alternative delivery systems, or*  
29 *other cooperative arrangements, with any public or private entity.*

30 *(16) To enter into joint powers agreements pursuant to Chapter*  
31 *5 (commencing with Section 6500) of Division 7 of Title 1 of the*  
32 *Government Code.*

33 *(17) To establish nonprofit, for profit, or other entities necessary*  
34 *to carry out the duties of the authority.*

35 *(18) To elect to transfer funds to the state and incur certified*  
36 *public expenditures in support of the Medi-Cal program and other*  
37 *programs for which federal financial participation is available.*

38 *(19) To use a computerized management information system,*  
39 *including an electronic health records system, in connection with*  
40 *the administration of its facilities.*

1     (20) *To contract with the county for the provision of indigent*  
2 *care services on behalf of the county. The contract shall specify*  
3 *that county policies consistent with the county's obligations under*  
4 *Section 17000 of the Welfare and Institutions Code shall be*  
5 *applicable. Notwithstanding any other provision of this chapter,*  
6 *the authority shall not undertake any of the county's obligations*  
7 *under Section 17000 of the Welfare and Institutions Code, nor*  
8 *shall the authority have an entitlement to receive any revenue for*  
9 *the discharge of the county's obligations, without a written*  
10 *agreement with the county.*

11     (21) *To engage in other activities that may be in the best*  
12 *interests of the authority and the persons served by the authority,*  
13 *as determined by the board of trustees, in order to respond to*  
14 *changes in the health care industry.*

15     (b) *The authority shall conform to the following requirements:*

16     (1) *Be a government entity separate and apart for all purposes*  
17 *from the county and any other public entity, and shall not be*  
18 *considered to be an agency, division, or department of the county*  
19 *or any other public entity. The authority shall not be governed by,*  
20 *or subject to, the policies or operational rules of the county or any*  
21 *other public entity.*

22     (2) *Be subject to state and federal taxation laws that are*  
23 *applicable to public entities generally, except that the authority*  
24 *may, to the extent permitted by federal law, apply for an exemption*  
25 *from social security taxation if there is a mutual agreement with*  
26 *the exclusive representatives of the affected employees.*

27     (3) *Comply with the Meyers-Milias-Brown Act (Chapter 10*  
28 *commencing with Section 3500) of Division 4 of Title 1 of the*  
29 *Government Code), the Public Records Act (Chapter 3.5*  
30 *commencing with Section 6250) of Division 7 of Title 1 of the*  
31 *Government Code), and the Ralph M. Brown Act (Chapter 10*  
32 *commencing with Section 3500) of Division 4 of Title 1 of the*  
33 *Government Code).*

34     (4) *Carry professional and general liability insurance or*  
35 *programs to the extent sufficient to cover its activities.*

36     (5) *Comply with the requirements of Sections 53260 and 53261*  
37 *of the Government Code.*

38     (6) *Meet all local, state, and federal data reporting*  
39 *requirements.*

1 (c) *Open sessions of the authority shall constitute official*  
2 *proceedings authorized by law within the meaning of Section 47*  
3 *of the Civil Code. The privileges set forth in that section with*  
4 *respect to official proceedings shall apply to open sessions of the*  
5 *authority.*

6 (d) *The authority shall be a public agency for purposes of*  
7 *eligibility with respect to grants and other funding and loan*  
8 *guarantee programs. Contributions to the authority shall be tax*  
9 *deductible to the extent permitted by state and federal law.*  
10 *Nonproprietary income of the authority shall be exempt from state*  
11 *income taxation.*

12 (e) *The authority shall not be a “person” subject to suit under*  
13 *the Cartwright Act (Chapter 2 (commencing with Section 16700)*  
14 *of Part 2 of Division 7 of the Business and Professions Code).*

15 (f) *The statutory authority of a board of supervisors to prescribe*  
16 *rules that authorize a county hospital to integrate its services with*  
17 *those of other providers into a system of community service that*  
18 *offers free choice of hospitals to those requiring hospital care, as*  
19 *set forth in Section 14000.2 of the Welfare and Institutions Code,*  
20 *shall apply to the authority and the board of trustees.*

21 (g) *Unless otherwise agreed to by the authority and the board*  
22 *of supervisors, or the authority and a governing board, an*  
23 *obligation of the authority, statutory, contractual, or otherwise,*  
24 *shall be the obligation solely of the authority and shall not be the*  
25 *obligation of the county or any other entity, and any contract*  
26 *executed by and between the county and the authority, or any other*  
27 *entity and the authority, shall contain a provision that liabilities*  
28 *or obligations of the authority with respect to its activities pursuant*  
29 *to the contract shall be the liabilities or obligations of the authority*  
30 *and shall not be or become the liabilities or obligations of the*  
31 *county or the other entity, respectively.*

32 (h) *An obligation of the authority, statutory, contractual, or*  
33 *otherwise, shall be the obligation solely of the authority and shall*  
34 *not be the obligation of the state.*

35 (i) *In the event of a change of license ownership, the board of*  
36 *trustees shall comply with the obligations of governing bodies of*  
37 *general acute care hospitals generally as set forth in Section 70701*  
38 *of Title 22 of the California Code of Regulations, as currently*  
39 *written or subsequently amended, as well as the terms and*  
40 *conditions of the license. The authority shall be the responsible*

1 *party with respect to compliance with these obligations, terms,*  
2 *and conditions.*

3 *(j) (1) Provisions of the Evidence Code, the Government Code,*  
4 *including the Public Records Act (Chapter 3.5 (commencing with*  
5 *Section 6250) of Division 7 of Title 1 of the Government Code),*  
6 *the Civil Code, the Business and Professions Code, and other*  
7 *applicable law pertaining to the confidentiality of peer review*  
8 *activities of peer review bodies shall apply to the peer review*  
9 *activities of the authority. Peer review proceedings shall constitute*  
10 *an official proceeding authorized by law within the meaning of*  
11 *Section 47 of the Civil Code and those privileges set forth in that*  
12 *section with respect to official proceedings shall apply to peer*  
13 *review proceedings of the authority. If the authority is required*  
14 *by law or contractual obligation to submit to the state or federal*  
15 *government peer review information or information relevant to*  
16 *the credentialing of a participating provider, that submission shall*  
17 *not constitute a waiver of confidentiality. The laws pertaining to*  
18 *the confidentiality of peer review activities shall be together*  
19 *construed as extending, to the extent permitted by law, the*  
20 *maximum degree of protection of confidentiality.*

21 *(2) Notwithstanding any other law, Section 1461 shall apply to*  
22 *hearings on reports of hospital medical audit or quality assurance*  
23 *committees.*

24 *(k) (1) Transfer by the county to the authority, or by the*  
25 *governing board to the authority, of the maintenance, operation,*  
26 *and management or ownership of the medical center or the other*  
27 *health care facility, respectively, whether or not the transfer*  
28 *includes the surrendering by the county or the governing board*  
29 *of an existing general acute care hospital license and*  
30 *corresponding application for a change of ownership of the license,*  
31 *shall not affect the eligibility of the county or the governing board*  
32 *to undertake, and shall authorize the authority, subject to*  
33 *applicable requirements, to do, any of the following:*

34 *(A) With the written consent of the county, participate in and*  
35 *receive allocations pursuant to the California Health Care for*  
36 *Indigents Program pursuant to Chapter 5 (commencing with*  
37 *Section 16940) of Part 4.7 of Division 9 of the Welfare and*  
38 *Institutions Code, or similar programs, as may be identified or*  
39 *earmarked by the county for indigent health care services of the*  
40 *type provided by the medical center.*

1 (B) With the written consent of the county, participate in and  
2 receive allocations of local revenue fund amounts provided  
3 pursuant to Chapter 6 (commencing with Section 17600) of Part  
4 5 of Division 9 of the Welfare and Institutions Code as may be  
5 identified or earmarked by the county for indigent health care  
6 services of the type provided by the medical center.

7 (C) Participate in the financing of, and receive, Medicaid  
8 disproportionate share hospital payments available to a county  
9 hospital or designated public hospital, or any other successor or  
10 modified payment or funding that is intended to assist hospitals  
11 that serve a disproportionate share of low-income patients with  
12 special needs. The allocation of Medicaid disproportionate share  
13 hospital payments shall be made in consultation with the State  
14 Department of Health Care Services and other designated safety  
15 net hospitals.

16 (D) Participate in the financing of, and receive, Medi-Cal  
17 supplemental reimbursements, including, but not limited to,  
18 payments made pursuant to Sections 14105.96, 14105.965,  
19 14166.4, and 14182.15 of the Welfare and Institutions Code,  
20 payments described in paragraph (4) of subdivision (b) of Section  
21 14301.4 of the Welfare and Institutions Code, and payments made  
22 available to a county provider or designated public hospital, or  
23 governmental entity with which it is affiliated, under any other  
24 successor or modified Medicaid payment system.

25 (E) Participate in the financing of, and receive, safety net care  
26 pool funding, stabilization funding, delivery system reform  
27 incentive pool payments, and any other funding available to a  
28 county provider or designated public hospital, or governmental  
29 entities with which it is affiliated under the Medicaid demonstration  
30 project authorized pursuant to Article 5.2 (commencing with  
31 Section 14166) and Article 5.4 (commencing with Section 14180)  
32 of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions  
33 Code, or under any other successor or modified Medicaid  
34 demonstration project or Medicaid payment system. The allocation  
35 of safety net care pool funds shall be made in consultation with  
36 the State Department of Health Care Services and other designated  
37 safety net hospitals.

38 (F) Participate in the financing, administration, and provision  
39 of services under the Low Income Health Program authorized  
40 pursuant to Part 3.6 (commencing with Section 15909) of Division

1 9 of the Welfare and Institutions Code, or under any other  
2 successor or modified Medicaid demonstration project or Medicaid  
3 payment system if the authority enters into an agreement with the  
4 county concerning the provision of services by, and payment for  
5 these services to, the county.

6 (G) Participate in and receive direct grant and payment  
7 allocations pursuant to Article 5.228 (commencing with Section  
8 14169.1) of Chapter 7 of Part 3 of Division 9 of the Welfare and  
9 Institutions Code, or under any other successor or modified direct  
10 grant and payment systems funded by hospital or other provider  
11 fee assessments.

12 (H) Receive Medi-Cal capital supplements pursuant to Section  
13 14085.5 of the Welfare and Institutions Code. Notwithstanding  
14 any other law, supplemental payments shall be made to the medical  
15 center under Section 14085.5 of the Welfare and Institutions Code  
16 for the debt service costs incurred by the county, and, if applicable,  
17 by the authority to the extent that debt service responsibility is  
18 refinanced, transferred to, or otherwise assumed by, directly or  
19 indirectly, the authority.

20 (I) Receive any other funds that would otherwise be available  
21 to a county provider or designated public hospital, or governmental  
22 entity with which it is affiliated.

23 (2) A transfer described in paragraph (1) shall not otherwise  
24 disqualify the county or the governing board, or in the case of a  
25 change in license ownership, the authority, from participating in  
26 any of the following:

27 (A) Local, state, and federal funding sources either specific to  
28 county or district hospitals, county or district ambulatory care  
29 clinics, designated public hospitals, or government entities with  
30 which they are affiliated, for which there are special provisions  
31 specific to those hospitals, ambulatory care clinics, or government  
32 entities.

33 (B) Funding programs in which the county or the governing  
34 board, by themselves or on behalf of the medical center or the  
35 other health care facility, respectively, had participated prior to  
36 the creation of the authority, or would otherwise be qualified to  
37 participate in had the authority not been created, and the  
38 maintenance, operation, and management or ownership of the  
39 medical center and the other health care facility not been

1 transferred by the county and the governing board to the authority  
2 pursuant to this chapter.

3 (l) The authority, the county, and the governing board, or any  
4 combination thereof, may engage in marketing, advertising, and  
5 promotion of the medical and health care services made available  
6 to the community by the authority.

7 (m) The board of trustees shall have authority over procurement  
8 and contracts for the authority. The board of trustees shall adopt  
9 written rules, regulations, and procedures with regard to these  
10 functions. Contracts by and between the authority and a public  
11 agency, and contracts by and between the authority and providers  
12 of health care, goods, or services, may be let on a nonbid basis  
13 and shall be exempt from Chapter 2 (commencing with Section  
14 10290) of Part 2 of Division 2 of the Public Contract Code.  
15 Notwithstanding any other provision of this section, the authority  
16 shall not subcontract work performed by classifications represented  
17 by employee organizations without mutual agreement between the  
18 authority and the exclusive representatives, except that a  
19 subcontract entered into prior to the formation of the authority  
20 may remain in effect until its termination or completion and may  
21 be modified or renewed to a later termination or completion date  
22 upon agreement between the authority and the exclusive  
23 representatives of the affected classifications.

24 (n) The authority shall be responsible for human resource  
25 functions, including, but not limited to, position classification,  
26 compensation, recruitment, selection, hiring, discipline,  
27 termination, grievance, equal opportunity, performance  
28 management, probationary periods, training, promotion, and  
29 maintenance of records. The board of trustees shall adopt written  
30 rules, regulations, and procedures with regard to these functions.  
31 Until the time that the board of trustees adopts its own rules,  
32 regulations, or procedures with regard to these functions, the  
33 existing rules, regulations, and procedures set forth in any  
34 memorandum of understanding described in paragraph (3) of  
35 subdivision (d) of Section 101852.2 shall apply. If the memoranda  
36 do not provide for the exercise of these functions, the rules,  
37 regulations, and procedures of the county shall apply.

38 (o) The authority may contract with the county or the governing  
39 board for services and personnel upon mutually agreeable terms.



1 (p) Notwithstanding Article 4.7 (commencing with Section 1125)  
2 of Chapter 1 of Division 4 of Title 1 of the Government Code,  
3 related to incompatible activities, a member of the authority's  
4 administrative staff shall not be considered to be engaged in  
5 activities inconsistent and incompatible with his or her duties as  
6 a result of prior employment or affiliation with the county or the  
7 governing board.

8 (q) The board of trustees and the officers and employees of the  
9 authority are public employees for purposes of Division 3.6  
10 (commencing with Section 810) of Title 1 of the Government Code,  
11 relating to claims and actions against public entities and public  
12 employees, and shall be protected by the immunities applicable to  
13 public entities and public employees governed by Part 2  
14 (commencing with Section 814) of Division 3.6 of Title 1 of the  
15 Government Code, except as provided by other statutes or  
16 regulations that apply expressly to the authority.

17 (r) Except for Part 3 (commencing with Section 20000) of  
18 Division 5 of Title 2 of the Government Code, this chapter shall  
19 prevail over any inconsistent statutes governing employees of the  
20 authority, including, but not limited to, the Meyers-Milias-Brown  
21 Act (Chapter 10 (commencing with Section 3500) of Division 1 of  
22 Title 1 of the Government Code).

23 101852.6. The board of trustees may find and declare that the  
24 authority shall cease to exist. In that event, the board of trustees  
25 shall provide for the disposition of the authority's assets,  
26 obligations, and liabilities. Absent written agreement, the county  
27 shall not be obligated under any law to assume the authority's  
28 obligations or liabilities, or take title to, or custody or control of,  
29 the authority's assets. Upon notification by the authority of the  
30 disposition of the authority's assets and liabilities, the board of  
31 supervisors shall rescind the ordinance that established the  
32 authority, and the authority shall cease to exist on the date set  
33 forth in the rescinding ordinance.

34 ~~SECTION 1. Chapter 3.5 (commencing with Section 101800)~~  
35 ~~is added to Part 4 of Division 101 of the Health and Safety Code,~~  
36 ~~to read:~~

1           ~~CHAPTER 3.5. KERN COUNTY HOSPITAL AUTHORITY~~

2  
3       ~~101800. (a) The board of supervisors of the County of Kern~~  
4 ~~may establish the Kern County Hospital Authority, which shall~~  
5 ~~for all purposes be a public entity separate and apart from the~~  
6 ~~county and any other public entity. The authority established~~  
7 ~~pursuant to this chapter shall file the statement required by Section~~  
8 ~~53051 of the Government Code, and shall be considered a public~~  
9 ~~entity for purposes of Division 3.6 (commencing with Section 810)~~  
10 ~~of Title 1 of the Government Code.~~

11       ~~(b) (1) In order for the authority to be established, transact any~~  
12 ~~business, exercise its powers, or undertake its duties and~~  
13 ~~responsibilities, the board of supervisors of the County of Kern~~  
14 ~~and the governing body of at least one health care facility shall~~  
15 ~~reach an agreement, on terms and conditions satisfactory to the~~  
16 ~~parties, regarding the affiliation or consolidation.~~

17       ~~(2) An agreement concerning the transfer of existing employees~~  
18 ~~from the county to the authority shall include a transition plan that~~  
19 ~~recognizes and ensures employee protections.~~

20       ~~(3) If the board of supervisors of the County of Kern and the~~  
21 ~~governing body of at least one health care facility reach an~~  
22 ~~agreement, the terms and conditions of the agreement shall be~~  
23 ~~binding upon the authority. After the agreement is reached, the~~  
24 ~~board of supervisors of the County of Kern shall adopt an ordinance~~  
25 ~~to establish the authority and authorize the authority to exercise~~  
26 ~~its powers and duties, and the board of supervisors and the~~  
27 ~~governing board shall appoint a board of trustees.~~